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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/682,144	07/26/2001	Maurice J. Ouellette	11ME-491	2730

23465 7590 01/14/2004

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EXAMINER

KIM, PAUL L

ART UNIT PAPER NUMBER

2857

DATE MAILED: 01/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/682,144

Applicant(s)

OUELLETTE ET AL.

Examiner

Paul L Kim

Art Unit

2857

-- Th MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 23 October 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-4, 6, 7, and 9-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Lightbody et al.

With reference to claims 1 and 2, Lightbody et al teaches a method for creating a secure program history log comprising communicating input program parameters to the microprocessor in a programming event (fig. 1, part 22), using the processor and program parameters to create a log entry as the input parameters are communicated (col. 14, lines 50-52 and col. 9, lines 43-50), and writing the log entry into a program history log (col. 14, lines 53-55) so that changes identifiable (col. 14, lines 50-52), and if the changes are unauthorized, the meter parameters are restorable (col. 14, lines 44-47).

With reference to claims 3 and 14, Lightbody et al teaches the log entry comprising log entry information including date and time (col. 14, lines 55-56).

With reference to claims 4, 6, 10, and 15, Lightbody et al teaches preventing alteration of the log entry after it is written (col. 7, lines 50-57 and col. 14, lines 31-47).

With reference to claim 7, Lightbody et al teaches program history logs being read through a communication port (fig. 1, part 22).

With reference to claim 9, Lightbody et al teaches communicating program parameters to a first computer (col. 5, lines 7-10), executing a programming software to program the device based on the parameters (col. 7, lines 12-15), creating a record using the software and parameters (col. 7, lines 15-21), and storing the record in a second memory device (fig. 1, part 74).

With reference to claim 11, Lightbody et al teaches the device being an electricity meter (fig. 1, part 10) with parameters being communicated to the microprocessor for determining energy consumption data outputs (col. 2, lines 48-54).

With reference to claims 12-14, 16, 18, and 20, Lightbody et al teaches an electronic electricity meter comprising a communication port configured to receive meter input parameters in a programming event (fig. 1, part 22), a microprocessor configured to receive meter input parameters from the communications port and determine energy consumption data outputs based on the input parameters (fig. 5, parts 23 & 146 and col. 9, lines 10-27), the microprocessor configured to create a program history log entry when the input parameters are received in a programming event (col. 14, lines 50-55), and a memory device connected to the microprocessor and comprising a program history log to record changes to the input parameters, the microprocessors further configured to write the log entry into the history log (fig. 11b, parts 139 & 489) comprising a date and time stamp (col. 14, lines 55-56).

With reference to claims 17 and 21, Lightbody et al teaches the meter configured to allow reading of the program history log through the communications port and to prohibit direct input into the log from the communications port (col. 7, lines 50-57).

With reference to claims 19 and 22, Lightbody et al teaches a memory for storing a history log (fig. 11b, part 489) and another memory for storing input parameters (col. 10, lines 23-26).

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 5 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lightbody et al in view of Bui et al.

Lightbody et al teaches a memory log for recording data histories but does not teach the memory log overwriting the oldest log entry with a new log entry when the history log is full. Bui et al teaches a method of synchronizing data sets on a recording media that overwrites the oldest data entry with a new entry when the cache or memory is full (col. 5, lines 35-45). It would have been obvious to one of ordinary skill in the art, at the time of the invention, to modify Lightbody et al, so that data entries are overwritten, as taught by Bui et al, in order to be able to continue recording entries when the memory runs out of space.

### ***Response to Arguments***

5. Applicant's arguments filed October 23, 2003 have been fully considered but they are not persuasive.

With regards to amended claims 1, 12, 16, and 20, Lightbody et al teaches the limitation "... such that changes to meter parameters are identifiable, and if the changes are unauthorized, the meter parameters are restorable", as described in the 102 rejections above.

In response to the applicant's argument that there is no suggestion to combine the references of claims 5 and 8, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the invention of both Lightbody et al and Bui et al teach a memory storage being used to record logged data. Bui et al teaches that the idea of replacing existing data with new data when the memory is full is well known in the art. As a further example, Hurley teaches a memory using FIFO techniques in which newest data log entry replaces the oldest entry when the memory is full (col. 4, lines 14+).

### **Conclusion**

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul Kim whose telephone number is 703-305-7468. The examiner can normally be reached on Monday-Thursday 10:00-7:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marc Hoff can be reached on 703-308-1677. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9306 for regular communications and for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

PK  
January 6, 2004

  
MARC S. HOFF  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2800